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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/582,729	08/16/2006	Henning Schulte	SCHULTE ET AL-4 PCT	4664
25889	7590	07/15/2008		
COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			EXAMINER VORTMAN, ANATOLY	
			ART UNIT 2835	PAPER NUMBER
			MAIL DATE 07/15/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/582,729

**Applicant(s)**

SCHULTE ET AL.

**Examiner**

ANATOLY VORTMAN

**Art Unit**

2835

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-855)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Paper No(s)/Mail Date \_\_\_\_\_
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Specification*

1. The disclosure is objected to because of the following informalities: The headings for various sections of the specification are omitted. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by US/4,023,265 to Aryamane..

Regarding claim 1, Aryamane disclosed (Fig. 1-4, 8, and 9) a one-piece fuse insert (4) consisting of a flat part punched from sheet metal, particularly zinc sheet metal (col. 5, line 66) particularly a flat plug, the contacts (8) of which are connected with one another by means of a connection piece (20, 22) that forms a fusible conductor, wherein at least one segment (20) of the connection piece is formed flat in such a manner that its thickness is reduced by a predetermined dimension as compared with the original thickness of the sheet metal. Further, regarding the

method/process of making limitation “pressed”, please note that, even though the claim is limited by and defined by the recited process, the determination of patentability of the product is based on the product itself, and does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process. *In re Thorpe*, 227 USPQ 964, 966 (Fed. Cir. 1985). It is the patentability of the product claimed and not of the recited process steps which must be established. *In re Brown*, 459 F.2d 531, 535, 173 USPQ 685, 688 (CCPA 1972). It should also be noted that a “[p]roduct-by process claim, although reciting subject matter of claim in terms of how it is made, is still product claim; it is patentability of product claimed and not recited process steps that must be established, in spite of fact that claim may recite only process limitations”, *In re Hirao and Sato*, 190 USPQ 15 (Fed. Cir. 1976). Therefore, the limitation has not been given patentable weight.

Further, regarding claims 2-5, the claims are the product-by-process claims and directed strictly to the method/process of making the aforementioned fuse insert. Therefore, the claims have not been given patentable weight. See *In re Thorpe*, *In re Brown*, and *In re Hirao and Sato*, *supra*.

4. Alternatively, claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by US/6,642,834 to Oh et al (Oh).

Regarding claim 1, Oh disclosed (Fig. 1 and 4-8) a one-piece fuse insert (12, 30, 32, 34, 54) consisting of a flat part punched from sheet metal, particularly zinc sheet metal (col. 3, line 10) particularly a flat plug, the contacts (38, 40; 50, 52; 44, 46; 58, 60) of which are connected with one another by means of a connection piece (22, 36, 42, 48, 56) that forms a fusible

conductor, wherein at least one segment of the connection piece is pressed flat (col. 2, lines 6-8) in such a manner that its thickness is reduced by a predetermined dimension as compared with the original thickness of the sheet metal.

Further, regarding claims 2-5, the claims are the product-by-process claims and directed strictly to the method/process of making the aforementioned fuse insert. Therefore, the claims have not been given patentable weight. See *In re Thorpe*, *In re Brown*, and *In re Hirao and Sato*, *supra*.

5. Yet alternatively, claims 1-5 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by the Applicant's Admitted Prior Art (AAPA).

Regarding claim 1, AAPA teaches that it was known at the time of the invention to form a one-piece fuse inserts as claimed (see, instant specification, p.1, line 15 to p. 3, line 9).

Further, regarding the method/process limitation "pressed" of claim 1 and regarding the method/process limitations of the product-by-process claims 2-5, the recited method/process limitations have not been given patentable weight. See *In re Thorpe*, *In re Brown*, and *In re Hirao and Sato*, *supra*.

### ***Conclusion***

6. The additional prior art made of record on PTO-892 was not relied upon, but is considered pertinent to applicant's disclosure, because of the teachings of various electrical fuses with one-piece fuse inserts.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANATOLY VORTMAN whose telephone number is (571)272-2047. The examiner can normally be reached on Monday-Thursday, between 10:00 am and 8:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Jayprakash Gandhi can be reached on 571-272-3740. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Anatoly Vortman/  
Primary Examiner, Art Unit 2835